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LAND
STATE PARKS

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION

O'AHU ISLAND BURIAL COUNCIL MEETING MINUTES

DATE: WEDNESDAY – AUGUST 12, 2009

TIME: 10:00 A.M. TO 1:00 P.M.

PLACE: DEPARTMENT OF LAND AND NATURAL RESOURCES
1151 PUNCHBOWL STREET, ROOM 132, HONOLULU, HAWAII 96813

- I. CALL TO ORDER.** Chairman McKeague called the meeting to order at 10:20 a.m.
- II. ROLL CALL.** Quorum was established with 7 commissioners in attendance.
- III. Opening Pule** was offered by Shad Kane.
- IV. INTRODUCTION OF COUNCIL MEMBERS, SHPD STAFF AND DEPUTY AG.**

OIBC Attendance: Kehau Abad Cy Bridges Alice Greenwood Shad Kane

Kehaulani Kruse Kawika McKeague Hinaleimoana Falemei

OIBC Excused: Leimaile Quiteves Aaron Mahi Jace McQuivey Andy Keliikoa

SHPD Staff: Nancy McMahon, Deputy SHPO/State Archaeologist
Phyllis Coochie Cayan, History & Culture Branch Chief

Deputy AG: Colin Lau

Guests Signed In: Anthony Benzon Stephen Miyamoto Ty Fukumitsu

Andy Vuet Jean Rason, Kahu O Kahiko Keoni Lopaka Faith Miyamoto

Doug Borthwick Dawn Chang Juliette K. Galuteria Aileen K. Kanehe

Paulette Puaa Moore Don Caindec Kahu Curt Kekuna

Matt McDermott Lawrence Spurgeon

- V. OPENING REMARKS.** Chairman McKeague informed the public on the council's rules of conduct and process to receive testimony on the agenda items and other related matters on the OIBC's process per HRS 6E. The agenda was adjusted to move Item VII.G. Kawaiaha'o Church Multi-Purpose Building Renovation Project after Item VII.C. and to move Item B. Election of OIBC Vice-Chair deferred after the discussion on the Transit project. Also, a letter received from the Attorney General's office that this is the last OIBC meeting that will have a Deputy AG due to upcoming furloughs and lack of funding for the entire department.

VI. APPROVAL OF MEETING MINUTES

This agenda item was moved to the end of the agenda item of section VII.

VII. UPDATES AND INFORMATION

A. Update on Commissioners' Appointments and Terms of Service to the O'ahu Island Burial Council.

McKeague stated to the OIBC that due to term expirations, the Office of Boards and Commissions informed the department that Chuck Erhorn's term had actually expired July 1, 2009 which was prior to last month's meeting. Also, Jace McQuivey was eligible until July 23, 2009 and remains eligible as a 'holdover' for another year or until another replacement is found. The ratio of landowners/developer representatives to district representatives remains okay with the holdover of McQuivey who has agreed to continue on the OIBC. Discussion on last meeting's motion by Erhorn and does the motion remain legal. The motion and second was unanimous and therefore is not a problem. However, the OIBC could clarify and do the motion again if they so desire.

There were no public comments on this item.

B. NAGPRA notice of human remains from Hawai'i at the Warren Anatomical Museum, Harvard University, Boston MA.

McKeague briefed the OIBC on the notice that was sent on the seven sets of na iwi kupuna at the Warren Anatomical Museum and that one specifically described it was taken from a volcanic mountain on O'ahu. On June 13, 2009, the OIBC filed a letter for joint repatriation with the Office of Hawaiian Affairs (OHA) and Hui Malama I Na Kupuna O Hawaii Nei (HMNK). This is a joint claim with the OHA. The process of repatriation is deferred by OIBC and the OHA to Hui Malama I Na Kupuna O Hawaii Nei (HMNK). The HMNK will facilitate the repatriation with OIBC and OHA.

There were no public comments on this item.

C. Kawaiaha'o Church Multi-purpose Building Renovation Project, Hoolulu Ahupua'a, Kona District, O'ahu. TMK: [1]2-1-032:017.

McKeague recalled that last month the OIBC made a motion (which was seconded by Ehrhorn) to write the Office of the Attorney General that the OIBC juris was not included in the DLNR letter dated June 10, 2009 to Kawaiaha'o Church in the matter of kuleana by the various agencies involved. McKeague asked the OIBC to reconsider the motion for the record as Ehrhorn seconded it and is no longer a commissioner.

MOTION by Kehau Abad that the O'ahu Island Burials Council (OIBC) shall seek legal counsel from the Attorney General's office in order to establish OIBC jurisdiction over any and all burials at the Kawaiaha'o Church property over which the OIBC has jurisdiction." **Motion was seconded by Alice Greenwood. Vote was unanimous. No nays, no kanalua votes. The motion passed unanimously.**
ACTION: Chairman McKeague will write the letter to the AG's office stating the intent of the motion.

[Note: Commissioner Cy Bridges arrived at 10:40 a.m.]

Representatives from Kawaiaha'o Church shared their mana'o regarding the project. Three na kupuna wahine shared their appreciation and support of the project for a new multi-purpose building. All emphasized their membership and family's long-time affiliation with Kawaiaha'o Church as well as their families buried there and their customary practices to malama na iwi kupuna. Kahu Kurt Kekuna stated that the Na Iwi Kupuna Committee is comprised of church volunteers and are unpaid to malama na iwi kupuna. Kekuna added that there are several 'ohana involved with the care of na iwi kupuna too.

McKeague thanked the church members for their mana'o. He noted that the project to go forward is beyond the OIBC purview and that the OIBC recognizes the church made accommodations back then for certain conditions. McKeague stated the church should lead, the OIBC will kako'o. Further, McKeague notes that the department made its own assertions legally on permits and that some 'ohana felt the OIBC was being dismissed in the project. The OIBC is seeking what its role is with a letter to the AG Office. The OIBC intent is not to stop the project but to represent the 'voices' that are not being heard in this process.

Abad added similar mana'o to McKeague's statement above with a discussion on the process for 'ohana members who are not being heard and who do not necessarily agree with the church's process to malama na iwi kupuna. Abad felt strongly that the OIBC should advocate for the families who are not being heard and keep that window open for those families and the OIBC role not go beyond that.

Hina Falemei added that there were people who brought concerns to the OIBC and that the OIBC is not being maha'oi in your kuleana. She thanked the church members for their care of na iwi kupuna although having to do this is reflective of the greater kaumaha of Hawaiians.

Dawn Chang, a consultant to the Kawaiaha'o Church project responded to OIBC questions that:

- There is on-going dialogue with the Department of Health for a permit that will include the conditions set by SHPD.
- The permit is only for the project area and not the entire cemetery.
- There has been no subsurface work yet.

There was no public comment on this item.

D. Update on the Honolulu Rail Transit Project for the areas of Honouliuli, Ho'ae'ae, Waikale, Waipi'o, Waiawa, Manana, Waimano, Waiau, Waimalu, Kalauao, 'Aiea, Halawa, Moanalua, Kahauiki, Kapalama, Nu'uana, Pauoa, Makiki, Manoa and Waikiki Ahupua'a, 'Ewa and Kona Districts. TMK: Various.

- McKeague referred to the last version of the draft Programmatic Agreement (PA) dated August 4, 2009. He noted there were revisions in the language from that last meeting.
- Abad note that the PA is a way for the OIBC to be included in that process for all historic preservation concerns in lieu of the normal Section 106 process. Her concern is there may be different plans for mitigation of burials that may be discovered in the transit project.
- Miyamoto of the Honolulu Transit team hoped the PA would reflect a normal process for the OIBC participation as there is more description of plans mentioned in the PA now. A general draft burial treatment plan (BTP) was discussed at a August 7th meeting with all stakeholders. If any burials are found, there would be a more specific BTP as when found under normal conditions.
- Spurgeon added should a burial be relocated in the vicinity of the work area – the project may be redesigned to avoid burials identified in the archaeological inventory survey (AIS).

- Falemei questioned the PA applying to federal lands and streamlining the process with federal agencies who may drag out the process.
- Miyamoto stated their intent is to carry out the PA.
- Spurgeon added it is a legally binding document. He notes the only areas identified as federal lands are a small parcel at the Kuhio Federal Building and about 1,000 sq.ft. at the Navy PHNSY. Also, NAGPRA would supersede HRS 6-E on any federal land.
- Abad notes that if any burial found that under NAGPRA there is a 30 day period to consult with Native Hawaiian organizations. An agreement on how this will happen on federal lands should be defined.
- McMahon will send Abad a copy of the MOA that the National Parks Service did for the restoration work at Pu'u Kohola, Kawaihae, Hawaii Island as an example of such an agreement to handle inadvertent.
- McKeague had inquired on the status of the OIBC being a signatory for the PA and was told "it's under consideration." He added the OIBC will continue to work with the transit task force and take it to D.C. and work with the Advisory Council on Historic Preservation (ACHP) for an opinion.
- Miyamoto confirmed that the ACHP is formally participating with the PA and a response should be forthcoming on the signatories for the PA from the FTA in San Francisco.
- McKeague voiced his concern there be any assurances on the funds to address the PA conditions such as relocation, landscaping, etc. Hopefully someone at the next meeting will address that. Miyamoto said that request has been put in. Falemei stated she was at the transit meeting to advocate there be funding for those concerns.
- Greenwood recapped that the PA does not include the OIBC or OHA, which it should as these lands belonged to Hawaiians. This is before the laws. She is wary of Hawaiian rights being violated.
- Falemei agreed and noted again that the OIBC is advocating being a signatory as all burials is our kuleana. McKeague said that the SHPD is a signatory and that the OIBC can be invited to sign.
- Abad thanked the transit team for working with the OIBC sub-committee. She is concerned with the last version of the PA. Abad feels the project still can be shaped with the basic technology used such as a light rail or metro. Discussion on what those technologies encompass.
- Spurgeon said as of last month there was no final form which design/technology will be chosen for the rail. He described the various possibilities and those that didn't make the final cut. Discussion on pros and cons on the different designs used in Seattle and Portland. Abad felt there should be a design that might avoid burials and that would be an assurance to the OIBC.
- Miyamoto asked for feedback from the sub-committee on the draft PA for further discussion at an upcoming meeting next Tuesday.

Public comment on this item is as follows:

- Jean Rason had concerns that the PA is an agreement that defines the parameters. He felt that higher density is higher risk and that parameters should be set on any burials to save time/money.

E. Election of OIBC Vice-Chairman.

Nominations for a new Vice-Chairman were Shad Kane and Hina Falemei.

Voting on both nominees was tied at three (3) votes each.

Kane thanked the commissioners for their votes and withdrew his name as a nominee.

Voting conducted again on nominee Falemei with a result of six (6) votes electing her as the new vice-chairman for the OIBC. There were no nays or kanalua votes.

Falemei did not vote but graciously accepted this kuleana.

F. Proposed Alapai Transit Center and Joint Traffic Management center located at 710 and 720 South King Street, Honolulu Ahupua'a, Kona District, Island of O'ahu. TMK: (1) 2-1-042:004,013.

Chairman McKeague recused himself from this discussion as his employer is one of the consultants. Vice-chairman Falemei assumed the chairmanship at this point to facilitate the meeting. Presenters for this item included Stephen Miyamoto, HCDA; and Matt McDermott, Cultural Surveys Hawaii.

- Miyamoto updated with a review of the initial archaeology survey which this project came before the OIBC two years ago and since then there have been changes to the project land use and design. The redesign shows less use of the property, more flexibility to redesign should there be further burial finds (there were 3 coffin burials from the east makai side which were preserved in place). Supplemental trenching was done upon meeting with SHPD.
- Matt McDermott distributed handouts of the project and noted this will be a federal funded project, the AIS was done in 2006-2007 where the three coffin burials were identified in the Diamond Head area of the parcel, and 28 trenches were done to ensure no other burials. SHPD noted there was insufficient information on the ethnicity of the three burials and the BTP in 2008 includes the agreement to preserve all three burials in place. Another meeting with SHPD resulted in 15 additional trenches completed on the parcel with no other burials found. Work on this project will commence next week. It will be a parking lot over cinder. A formal historic research will be done as the Atherton family (early 1900s) had a house there. The three coffin burials come from that same historic period.
- Kehau Kruse stated that the parking lot should not be built over the burials in the redesign.

There were no comments from the public on this item.

12:10 p.m. McKeague resumed the chairmanship at this time.

G. Queen Street Parks Archaeological Inventory Survey, Honolulu Ahupua'a, Kona District, Island of O'ahu. TMK: [1]2-3-004:075, 076.

- Miyamoto of HCDA updated the OIBC on the plans for the Queen Street Parks in the mauka area which will include a designated burial site which is located above the GGP –Ward project area. This will be a neighborhood park with landscaping, one sculpture, lighting and nothing conspicuous near the burial vaults. HCDA has worked with the recognized claimants to do the reinterment at the park site (most recently in July).
- Doug Borthwick added that the AIS were completed for the parks (see handouts on the project

area). Borthwick discussed ground activities will be limited to the drain line to Queen Lane, the holes for the posts (6' in a concrete base) and landscaping. There are no other historic properties on the project area less some fishpond sediment and trash pits. The soil is mostly clay. On the handout, Borthwick pointed out a sand area that will "dewater the edge of pond" where there may be a higher risk due to the sand for an inadvertent find. Trenching in the project area confirmed the bulk of the area was backfilled, found no sand to the water table, and a narrow clay layer atop the pond area (see handout). Work will proceed soon on the park. The AIS has a monitoring plan.

- SHPD staff will email the Kaleikini Ohana contact info to HCDA as requested.
- Falemei commented that the park should reflect a cultural name and perhaps include some information of the area. She noted that the area is called "Kolowalu" which would be an appropriate name for the park to add a Hawaiian sense of place. Falemei added there should be more trees in the landscaping too.
- Kruse notes that there is a pohaku to designate the burials area which is near the wall that is painted with Queen Liliuokalani with a huge wave. Kruse feels the mural is disrespectful to the burials and to the Queen and the mural should be removed. [Note: The mural is on a building separate from this project.

H. **Update on Section 106/NAGPRA Correspondence.** There was no report per Greenwood.

I. **Update on Kaena Point Advisory Committee.** There was no report due to Quiteves absence.

J. **Update on SHPD O'ahu Repository and Na Iwi Inventory.**

SHPD's memo update including the following:

- Five reinterments and/or transfers of custody of na iwi kupuna in August.
- Inventory is less than 15 bundles or boxes in varying sizes. SHPD continues to work with the OHA, Native Hawaiian groups and 'ohana to reinter all na iwi by end of year as many remains have been on the shelves from 1999 or earlier.
- SHPD is working with KSBE to use a Punalu'u facility as the future repository.

VIII. **UPDATE ON INADVERTENTS.**

There were no inadvertent finds in July, 2009.

IX. **APPROVAL OF MEETING MINUTES.**

Consensus by OIBC to defer to next meeting.

X. **ADJOURNMENT**

A motion by Shad Kane to adjourn the meeting was seconded by Kawika McKeague.

The motion passed unanimously. The meeting ended at 12:40 p.m. #

Minutes respectfully submitted by Phyllis Coochie Cayan.....Dated: September 2, 2009